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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,806	03/10/2004	Gilles Dumont	2308-5A	4514
Eric Fincham 316 Knowlton Road Lac Brome, QC J0E 1V0 CANADA	7590 08/20/2007		EXAMINER GELLNER, JEFFREY L	
			ART UNIT 3643	PAPER NUMBER
			MAIL DATE 08/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/797,806

Applicant(s)

DUMONT, GILLES

Examiner

Jeffrey L. Gellner

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3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 12-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 12 is objected to because of the following informalities:

In claim 12, line 7, the language of "said medium retaining member" should probably be --said plurality of medium retaining members-- so as to conform with the language of line 6.

In claim 12, lines 9 and 10, the language of "said medium retaining members" should probably be --each of said plurality of medium retaining members-- so as to conform with the language of line 6.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marchildon (US 6,604,321 B2) in view of Marchildon (US 2005/0039396 A1).

As to claim 12, Marchildon ('321 B2) discloses a rotary growing apparatus (Figs. 1-5B) comprising a single ring (12 of Fig. 1), a support means for the single ring (generally 14 of Fig. 1), means for rotatably driving (24 and 26 of Figs. 1 and 2) the single ring about a rotational axis of the ring, the rotational axis being substantially horizontal (from Fig. 1), a plurality of medium

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retaining members (58 of Fig. 1) extending transversely (see Fig. 1, at a right angle) of the ring, each of the members defining a base and at least one sidewall (from Figs. 3A to 5B) to define a medium receiving space (see Figs. 3A-5B), each of the plurality of medium retaining members having a base secured to the ring (in that portion of base is secured to 12, see Figs. 1 and 3C); liquid feeding means (68 of Fig. 4) for feeding a liquid to at least one of the plurality of medium receiving space while rotating; and, at least one light source (30 of Fig. 1) interiorly to the ring. Not disclosed is the ring centrally located with respect to each of said plurality of medium retaining members. Marchildon ('396 A1), however, discloses a medium retaining member that is centrally located to the ring (114 of Fig. 4(d) where ring is 106). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Marchildon ('321 B2) by using the medium retaining member of Marchildon ('396 A1) depending upon desired shape of the medium containing member.

As to claim 13, Marchildon ('321 B2) as modified by Marchildon ('396 A1) further disclose the light source located along the rotational axis (see Fig. 1 of Marchildon ('321 B2)).

As to claim 14, Marchildon ('321 B2) as modified by Marchildon ('396 A1) further disclose the plurality of medium retaining members secured by a clip means (in that 60 of Fig. 3B and 62 of Fig. 3C is considered a clip of Marchildon ('321 B2)).

As to claim 15, Marchildon ('321 B2) as modified by Marchildon ('396 A1) further discloses the plurality of medium retaining members has a plurality of apertures (77 of Fig. 5B of Marchildon ('321 B2) formed in the base to permit injection of liquid.

As to claim 16, Marchildon ('321 B2) as modified by Marchildon ('396 A1) further disclose a drive motor (24 of Fig. 2) and drive belt (26 of Fig. 2). Not disclosed a drive wheel

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and a drive shaft and the drive wheel. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the apparatus of Marchildon ('321 B2) as modified by Marchildon ('396 A1) by adding a drive shaft and a drive wheel to the drive mechanism so as to have an efficient means for driving.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sparkes (WO 93/12644).

As to claim 17, Sparkes discloses a rotary growing apparatus (Figs. 1-2) comprising at least one ring (11, 12, and 13 of Fig. 1), a support means for the single ring (10 of Fig. 1), means for rotatably driving (14 of Fig. 1) the single ring about a rotational axis of the ring, the rotational axis being substantially horizontal (from Fig. 1), a plurality of medium retaining members (16 of Fig. 1) extending transversely (see Fig. 1, at a right angle) of the ring, each of the members defining a base and at least one sidewall (in that bottom of 16 is a base and sides are a sidewall) to define a medium receiving space (see Fig. 2), each of the plurality of medium retaining members having a base secured to the ring (in that portion of base is secured to 13, see Fig. 1); liquid injection means (26 and 27 of Fig. 2) for feeding a liquid to at least one of the plurality of

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medium receiving space while rotating; and, at least one light source (17 of Fig. 1) interiorly to the ring.

As to claim 18, Sparkes further discloses the light source located centrally of the at least one ring (see Fig. 1).

As to claim 19, Sparkes further discloses the plurality of medium retaining members has a plurality of apertures (27 of Fig. 2) formed in the base to permit injection of liquid.

As to claim 20, Sparkes further discloses the liquid injection means located to feed liquid to the medium when the retaining member is in an upper quadrant of rotation (27 of Fig. 2 in that 27 is capable of feeding liquid to the medium when the medium is in the upper quadrant of rotation).

#### ***Allowable Subject Matter***

Claims 7, 21, and 22 are allowed over the art of record.

#### ***Response to Arguments***

Applicant's arguments filed 30 May 2007 have been fully considered but they are not persuasive. Applicant's argument are: (1) Sparkes does not disclose a single ring (Remarks page 6, 5<sup>th</sup> para.); and, (2) Sparkes disclose a liquid injection means arranged to feed liquid interiorly of the medium retaining member through the base thereof (Remarks page 6, 7<sup>th</sup> para.).

As to argument (1), new art that discloses one ring is used in the rejection as stated above.

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As to argument (2), Sparkes discloses a liquid injection means (27 of Fig. 2) arranged to feed liquid interiorly of the medium retaining member through the base thereof (from Fig. 2).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

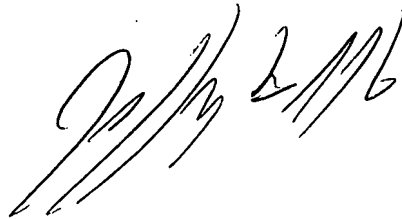
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey L. Gellner whose telephone number is 571.272.6887. The examiner can normally be reached on Monday-Friday, 8:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571.272.6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'J. Gellner', is written over the printed name.

Jeffrey L. Gellner  
Primary Examiner  
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